

March 30, 2007

Susan M. Hudson, Clerk  
Vermont Public Service Board  
112 State Street  
Montpelier, Vermont 05620

Re: Energy Efficiency Charge Exemption – Comments in Response to PSB Order of  
March 14, 2007

Dear Mrs. Hudson:

This letter responds to the Public Service Board's order of March 14, 2007 concerning an Energy Efficiency Charge ("EEC") exemption mechanism, which states in relevant part on page six:

We have never considered whether a rebate constitutes an exemption, and therefore would like to provide workshop participants with an opportunity to comment on this issue before resolving it. We are particularly interested in whether such a rebate mechanism would comply with the requirement in 30 V.S.A. § 209(d)(4) that the Board design an "exemption mechanism" and, if it does, what the advantages and disadvantages would be of using such an approach. Any participant wishing to comment on this issue should do so on or before March 30, 2007.

The use of a rebate mechanism is contrary to the use of the word "exemption" in 30 V.S.A. § 209(d)(4), regardless of any practical considerations that a party may believe favor use of such a mechanism. The word "exemption" means "freedom from a duty, liability or other requirement." Black's Law Dict. at 593 (7<sup>th</sup> ed. 1999). Applied in the context of the EEC, the word "exemption" therefore means freedom from any duty or liability to pay all or some of the EEC in the first place. Requiring an "exempt" customer to pay the full EEC, and then later returning all or some of the payment to the customer, is not the same as being free from any duty or liability to pay all or some of the EEC.

The issue of duty or liability is particularly apt in the context of the EEC, nonpayment of which is subject to disconnection. PSB Rule 5.303(C). However, the statutory use of the term "exemption" would prevent the use of a rebate mechanism regardless of the manner in which the obligation to pay the EEC is enforced.

DPS notes that the existing C&I Customer Credit Program does not provide for an exemption. Rather, eligible customers must pay the EEC and, under the program, have the “opportunity to obtain funding support from EEU resources for qualifying energy efficiency initiatives they take themselves.” Docket No. 5980, Order of 9/30/99 at 50.

Because the statute does not authorize implementing the EEC exemption through a rebate mechanism, DPS does not in this letter address the advantages or disadvantages of such a mechanism.

Thank you for your attention.

Sincerely,

Aaron Adler  
Special Counsel

cc: Act 61 e-mail list